IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH AT HYDERABAD

THE HON'BLE Mr. JUSTICE R. SUBHASH REDDY

Writ Petition No.13054 of 1997

Dated: November 28, 2006

Between:

Vaddu Nagaratnamma, W/o. Venkata Subba Reddy,
Aged about 40 years, R/o. A. Kodur village, Bandi
Atmakur Mandal, Kurnool District, and others.

… Petitioners

And

The District Collector, Kurnool, and another.

… Respondents

Order:

Petitioners, three in number filed this Writ Petition seeking Mandamus to declare notification bearing Rc.No.L/89/6 dated 25-03-1996 issued by the first respondent under Section 4(1) of the Land Acquisition Act, 1908 ('the Act' for brevity) as illegal and arbitrary.

2. Petitioners claim to be the owners and possessors of Ac.0.43 cents in S.No.519/2, Ac.0.64 cents in S.No.514 paiki, Ac.0.95 cents in

S.No.514 of A. Kodur village, Bandi Atmakur Mandal, and B. Kodur village, Atmakur Mandal, Kurnool District, respectively. The aforesaid lands were notified for acquisition under Section 4(1) of the Act, by notification dated 30-03-1996, for providing house sites to Scheduled Castes and weaker sections. The acquisition was notified by dispensing enquiry under Section 5-A of the Act by invoking urgency clause under Section 7(1) of the Act.

3. The said acquisition has mainly been questioned on the ground that though notification and declaration were published on 30-03-1996 and 13-04-1996 respectively, possession of the aforesaid lands was not taken within the stipulated time, i.e. 90 days from the date of acquisition; as such there was no such emergency to acquire the lands of the petitioners dispensing with enquiry under Section 5-A of the Act.

4. In the counter affidavit filed on behalf of the respondents, it is stated that possession has not yet been taken.

5. Learned counsel for petitioners submits that a part of land in the aforesaid survey numbers covered by the very same notification was the subject matter of a Writ Petition in W.P.No.15203 of 1996, wherein this court quashed the notification and allowed the Writ Petition.

6. Even from the averments in the counter affidavit, it is evident that by 27-06-1997, the date on which this court has passed interim orders, possession of the aforesaid lands, which were notified for acquisition, was not taken. The very fact that possession was not taken shows that there is no such urgency to dispense with enquiry under Section 5-A of the Act. In any event, as much as possession was not taken within the statutory period, enquiry under Section 5-A of the Act comes into picture. It is to be seen that notification was issued in 1996 and so far

possession of the lands notified has not been taken. In view of the abnormal time gap, the notification, which was also the subject matter of W.P.No.15203 of 1996, wherein the same was quashed, is liable to be quashed so far as the same relates to the petitioners' lands.

7. For the reasons stated above, the impugned notification is quashed. The Writ Petition is accordingly allowed. No order as to costs.

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JUSTICE R. SUBHASH REDDY.

November 28, 2006
MRR